

WAREHOUSE BONDS

§ 736.13 Bond required; time of filing.

Each warehouseman applying for a warehouse license under the Act shall, before such license is granted, file with the Secretary or his designated representative a bond either:

(a) In the form of a bond containing the following conditions and such other terms as the Secretary or his designated representative may prescribe in the approved bond forms, with such changes as may be necessary to adapt the forms to the type of legal entity involved:

Now, therefore, if the said license(s) or any amendments thereto be granted and said principal, and its successors and assigns operating said warehouse(s), shall faithfully perform during the period of this bond all obligations of a licensed warehouseman under the terms of the Act and regulations thereunder relating to the above-named products;

Then this obligation shall be null and void and of no effect, otherwise to remain in full force. For purposes of this bond, the aforesaid obligations under the Act and regulations and contracts include obligations under any and all modifications of the Act, the regulations, and the contracts that may hereafter be made, notice of which modifications to the surety being hereby waived.

This obligation shall be and remain in full force and effect for a minimum of one year beginning with the effective date and shall be considered a continuous bond thereafter until terminated as herein provided. The total liability of the surety is limited to the penal amount hereof, for liabilities that accrue during the term hereof.

This obligation shall be and remain in full force and effect from date of issue until one hundred twenty (120) days after notice in writing of cancellation shall have been received by the Secretary from the principal or surety. If said notice shall be given by the surety, a copy thereof shall be mailed on the same day to the principal. Cancellation of this bond and cancellation of any of its provisions shall not affect any liability accrued thereon at the time of said notice or which may accrue thereon during the one hundred twenty (120) days after such notice.

A bond in this form shall be subject to 7 CFR 736.6, and 736.14 through 736.17, and 31 CFR part 225, or

(b) In the form of a certificate of participation in and coverage by an indemnity or insurance fund as approved by the Secretary, established and maintained by a State, backed by the full faith and credit of the applicable

State, and which guarantees depositors of the licensed warehouse full indemnification for the breach of any obligation of the licensed warehouseman under the terms of the Act and regulations. A certificate of participation and coverage in such fund shall be furnished to the Secretary annually. If administration or application of the fund shall change after being approved by the Secretary, the Secretary may revoke his approval. Such revocation shall not affect a depositor's rights which have arisen prior to such revocation. Upon such revocation the licensed warehouseman then must comply with paragraph (a). Such certificate of participation shall not be subject to §§ 736.14 and 736.15, or

(c) In the form of a deposit with the Secretary as security, United States bonds, Treasury notes, or other public debt obligations of the United States or obligations which are unconditionally guaranteed as to both interest and principal by the United States, in a sum equal at their par value to the amount of the penal bond required to be furnished, together with an irrevocable power of attorney and agreement in the form prescribed, authorizing the Secretary to collect or sell, assign and transfer such bonds or notes so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond. Obligations posted in accordance with this paragraph may not be withdrawn by the warehouseman until one year after license termination or until satisfaction of any claims against the obligations whichever is later. A bond in this form shall be subject to 7 CFR 736.6 and 736.14 through 736.17 and 31 CFR part 225.

[52 FR 37127, Oct. 5, 1987]

§ 736.14 Amount of bond; additional amounts.

(a) The amount of bond to be furnished for each warehouse under the regulations in this part shall be fixed at a rate of 20 cents per bushel for the first 1,000,000 bushels of licensed capacity; 15 cents per bushel for the next 1,000,000 bushels of licensed capacity; and 10 cents per bushel for all licensed capacity over 2,000,000 bushels: *Provided*, That in any case the amount of

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bond shall not be less than \$20,000 nor more than \$500,000, except as prescribed in paragraph (c) of this section. The licensed capacity shall be the maximum number of bushels of grain that the warehouse could accommodate as determined under § 736.6(d).

(b) In case a warehouseman is licensed or is applying for licenses to operate two or more warehouses in the same State he may give a single bond meeting the requirements of the Act and the regulations in this part to cover all his warehouses within the State. In such case the warehouses to be covered by the bond shall be deemed to be one warehouse only for purposes of determining the amount of bond required under paragraph (a) of this section.

(c) In case of a deficiency in net assets above the \$50,000 minimum required under § 736.6(d)(1), there shall be added to the amount of bond determined in accordance with paragraph (a) of this section an amount equal to such deficiency or a letter of credit in the amount of the deficiency issued to the Secretary for a period of not less than two years to coincide with the period of any deposit of obligation under 7 CFR 736.13(c). Any letter of credit must be clean, irrevocable, issued by a commercial bank, payable to the Secretary by sight draft and insured as a deposit by the Federal Deposit Insurance Corporation. If the Secretary, or his designated representative, finds that conditions exist which warrant requiring additional bond, there shall be added to the amount of bond as determined under the other provisions of this section, a further amount to meet such conditions.

[29 FR 15730, Nov. 24, 1964, as amended at 39 FR 41824, Dec. 3, 1974; 47 FR 23911, June 1, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985, and further amended at 52 FR 37127, Oct. 5, 1987]

§ 736.15 Amendment to license.

In case an application is made for an amendment to a license and no bond previously filed by the warehouseman under §§ 736.13 through 736.17 covers obligations arising during the period covered by such amendment, the warehouseman shall, when notice has been given by the Secretary, or his des-

ignated representative, that his application for such amendment will be granted upon compliance by such warehouseman with the act, file with the Secretary, within a time, if any, fixed in such notice, a bond complying with the act. In the discretion of the Secretary, or his designated representative, a properly executed instrument in form approved by him, amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the warehouseman and otherwise complying with the act and the regulations in this part, may be filed in lieu of a new bond.

§ 736.16 New bond required each year.

A continuous form of license shall remain in force for more than one year from its effective date or any subsequent extension thereof, provided that the warehouseman has on file with the Secretary a bond meeting the terms and conditions as outlined in 7 CFR 736.13. Such bond must be in the amount required by the Secretary and approved by him or his designated representative. Failure to provide or renew a bond shall result in immediate and automatic termination of the warehouseman's license.

[52 FR 37127, Oct. 5, 1987]

§ 736.17 Approval of bond.

No bond, amendment, or continuation thereof shall be accepted for the purposes of the act and the regulations in this part until it has been approved by the Secretary, or his designated representative.

WAREHOUSE RECEIPTS

§ 736.18 Form.

(a) Every receipt, whether negotiable or nonnegotiable, issued for grain stored in a licensed warehouse shall, in addition to complying with the requirements of section 18 of the act, embody within its written or printed terms the following:

(1) The name of the warehouseman and the designation, if any, of the warehouse,

(2) A statement whether the warehouseman is incorporated or unincorporated, and if incorporated, under what laws,